

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLEAN AIR CAR SERVICE &
PARKING BRANCH THREE, LLC,
CLEAN AIR CAR SERVICE &
PARKING CORP., OPERR
TECHNOLOGIES, INC., OPERR
SERVICE BUREAU, INC., KEVIN S.
WANG,

MEMORANDUM AND ORDER

Case No. 1:24-cv-1088 (FB)

Appellants,

-against-

CLEAN AIR CAR SERVICE &
PARKING BRANCH TWO, LLC, and
OPERR PLAZA, LLC,

Appellees.

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Appearances:

For the Appellants:

KEVIN S. WANG
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Flushing, NY 11354

For the Appellees:

JAY S. HELLMAN
THOMAS A. DRAGHI
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BLOCK, Senior District Judge:

Appellants ask the Court to vacate and reverse the February 8, 2024 order of the United States Bankruptcy Court for the Eastern District of New York approving the sale of the assets of the Debtor-Appellee, Operr Plaza, LLC (the “Operr Plaza Debtor”). *In re: Clean Air Car Service & Parking Branch Two, LLC and Operr*

Plaza, LLC, Case No. 23-41937 (NHL), ECF No. 247 (Bankr. E.D.N.Y. 2023) (the “Sale Order”). They also request that the Court dismiss the bankruptcy proceeding in its entirety, *sua sponte*.

For the following reasons, this appeal is dismissed as statutorily moot.

I.

The Court relayed the background of this case in its March 13, 2024 Memorandum and Order denying Appellants’ motion for a stay in *Clean Air Car Serv. & Parking Branch Three, LLC v. Clean Air Car Serv. & Parking Branch Two, LLC*, No. 23-CV-9495 (FB), 2024 WL 1144635, at *1 (E.D.N.Y. Mar. 13, 2024) (the “Stay Decision”).¹ The Court assumes the parties’ familiarity with those facts and incorporates them herein by reference.

This appeal concerns the authorized sale of the Operr Plaza Debtor’s the principal asset — an office building— to an unaffiliated bidder (the “Buyer”) for \$2.5 million.

¹ The Operr Plaza Debtor’s bankruptcy proceeding is being jointly administered with that of Clean Air Car Service & Parking Branch Two, LLC (the “Clean Air Two Debtor”). The bankruptcy court entered separate orders approving the sale of the assets of each Debtor and Appellants appealed both.

II.

As the Court found in the appeal of the order approving the sale of the Clean Air Two Debtor's assets, any appeal of the sale of the Operr Plaza's assets is statutorily moot because the property was sold to a good-faith purchaser within the meaning of 11 U.S.C. § 363(m). The Operr Plaza Debtor's property was sold for value, as determined by the amount an unaffiliated third-party was willing to pay in a fair, competitive auction. *See In re Boston Generating, LLC*, 440 B.R. 302, 324 (Bankr. S.D.N.Y. 2010) (“[Fair] sale process reflects a true test of value.”). There is no evidence in the record of any “fraudulent, collusive actions specifically intended to affect the sale price or control the outcome of the sale.” *See In re Gucci*, 126 F.3d 380, 390 (2d Cir. 1997). And Appellants' already-litigated claim to maintain ownership and management rights in the Operr Plaza Debtor, *see Operr Plaza, LLC v. Wang*, No. 654192/2021, 2022 WL 43689, at *1 (N.Y. Sup. Ct. Jan. 03, 2022) (recognizing that Kevin Wang “no longer owns the [Operr Plaza Debtor].”), *aff'd*, 208 N.Y.S.3d 196 (1st Dep't 2024), is not the type of “adverse claim” that could impinge upon the Buyer's status as a good-faith purchaser. *See Matter of RE Palm Springs II, L.L.C.*, 65 F.4th 752, 760 (5th Cir.) (“Adverse claims with regard to good faith purchasers implies ownership must be

disputed . . . the knowledge required to vitiate such a label is of defect in title or adverse claim *to it.*") (cleaned up) (emphasis in original).

Accordingly, this appeal is statutorily moot pursuant to § 363(m).

CONCLUSION

For the foregoing reasons, the appeal of the bankruptcy court order approving the sale of the Operr Plaza Debtor's assets is DISMISSED.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
June 24, 2024